

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

SECURITIES INVESTOR PROTECTION
CORPORATION,

Plaintiff-Applicant,

v.

BERNARD L. MADOFF INVESTMENT
SECURITIES LLC,

Defendant.

Adv. Pro. No. 08-01789 (BRL)

SIPA Liquidation

(Substantively Consolidated)

In re:

BERNARD L. MADOFF,

Debtor.

AFFIDAVIT OF HOWARD L. SIMON

STATE OF NEW YORK)

ss:

COUNTY OF NEW YORK)

Howard L. Simon, being duly sworn, deposes and says:

1. I am an attorney admitted to the bar of this Court and a member of the firm of Windels Marx Lane & Mittendorf, LLP (“WMLM”). I submit this affidavit in support of the first application of WMLM, as special counsel to Irving H. Picard as trustee (the “Trustee”) for the substantively consolidated liquidation proceeding of Bernard L. Madoff Investment Securities LLC (“BLMIS”) and to Alan Nisselson (the “Chapter 7 Trustee”), trustee for the chapter 7 estate of Bernard L. Madoff (“Madoff”), pursuant to the Order of this Court dated July 16, 2009 [Docket No. 327], for allowance of interim compensation for services performed and reimbursement of actual and necessary expenses incurred during the period commencing June 9,

2009 through October 31, 2009 (the “Compensation Period”) pursuant to section 78eee(b)(5) of the Securities Investor Protection Act (“SIPA”), 15 U.S.C. § 78eee(b)(5), sections 330 and 331 of the Bankruptcy Code, Rule 2016(a) of the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”).

2. I submit this affidavit pursuant to Bankruptcy Rule 2016(a) in support of WMLM’s first application (“Application”) for allowance of compensation in the amount of \$712,614.00 for professional services rendered during the Compensation Period (of which 20% is to be deferred through the conclusion of the liquidation period) and reimbursement in the amount of \$15,072.92 for necessary expenses incurred during the Compensation Period.

3. As a partner of WMLM staffed on this matter, I am familiar with such services and with these proceedings. These statements are correct to the best of my knowledge and belief, based upon conversations I have conducted with the Trustee, his counsel Baker & Hostetler, LLP, attorneys at WMLM, and upon records kept by WMLM in the normal course of business.

4. I hereby certify that (i) I have read the Application; and (ii) to the best of my knowledge, information and belief, formed after reasonable inquiry, the Application substantially complies with the guidelines for fee applications under Bankruptcy Rule 2016(a).

5. WMLM’s fees in this case reflect a 10% public interest discount from WMLM’s standard rates. This discount has resulted in a voluntary reduction of \$79,179.34. Such fees are reasonable based on the customary compensation charged by comparably skilled practitioners in comparable bankruptcy and non-bankruptcy cases in a competitive national legal market.

6. I hereby certify that members of SIPC have been provided with a copy of this Application.

7. I hereby certify that (i) in providing reimbursable nonlegal services to the estate, WMLM does not make a profit on such services; and (ii) in seeking reimbursement for a service which WMLM justifiably purchased or contracted from a third party, WMLM requests reimbursement only for the amount billed to WMLM by the third-party vendors and paid by WMLM to such vendors.

8. WMLM has not made any previous application for allowance of fees for professional services rendered during the Compensation Period.

9. There is no agreement or understanding between the Trustee, WMLM and any other person, other than members of WMLM, for sharing of compensation to be perceived for services rendered in this case.

10. No agreement or understanding prohibited by 18 U.S.C. §155 has been made or shall be made by the Trustee or WMLM.

Dated: New York, New York
November 23, 2009

By: /s/ Howard L. Simon
Howard L. Simon
(hsimon@windelsmarx.com)
A Member of the Firm
156 West 56th Street
New York, New York 10019
(212) 237-1000

Sworn to and subscribed before me
this 23rd day of November, 2009

/s/ Maritza Segarra
Maritza Segarra
Notary Public, State of New York
No. 03-4652865
Qualified in Westchester County
Commission Expires December 31, 2009